

Introduced by Senator Figueroa

February 9, 2004

An act to add Article 10.9.1 (commencing with Section 25219.3) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1180, as introduced, Figueroa. Mercury lamp recycling.

(1) Existing law prohibits the management of hazardous waste, except in accordance with the hazardous waste laws. Under existing law, the Department of Toxic Substances Control (department) is authorized to exempt, until January 1, 2003, by regulation, a hazardous waste management activity from the requirements of the hazardous waste control law if the regulation governs a specified type of hazardous waste, including hazardous waste lamps, identifies the hazardous waste as a universal waste, and amends specified existing regulations of the department. A violation of the hazardous waste control laws is a crime.

This bill would enact the California Mercury Lamp Recycling Act of 2004 and would require a retail purchaser who purchases a fluorescent lamp in this state to pay a fluorescent lamp recycling fee to the retail seller. The bill would require the department to set the amount of the fluorescent lamp recycling fee at an amount that is sufficient to pay for the cost of recycling the fluorescent lamp. The bill would require the retail seller to collect the fluorescent lamp recycling fee from the retail purchaser at the time of sale and transmit the fee revenues to the State Board of Equalization on or before the last day of the month following each quarter, accompanied by any forms prescribed by the State Board of Equalization.



The bill would establish the Fluorescent Lamp Recycling Subaccount within the Hazardous Waste Control Account and would require the State Board of Equalization to deposit the fee revenues into the subaccount. The bill would authorize the department and the California Integrated Waste Management Board to expend the funds in the subaccount upon appropriation by the Legislature, for specified purposes, including making recycling incentive payments to a fluorescent lamp recycler that collects and processes fluorescent lamps in a specified manner. The bill would also authorize the funds in the subaccount to be expended to provide grant funds to local governments to assist in the convenient and cost-effective collection and processing of fluorescent lamps as a universal waste, to establish a recycling incentive grant program, including incentive payments, to retail sellers or wholesalers that collect and transport fluorescent lamps, to establish public information programs to educate the public on the hazards of fluorescent lamp collection programs, and to implement the act.

The bill would require the department to enter into an agreement with the board regarding appropriate responsibilities of each agency in expending these funds.

The bill would authorize the department to adopt regulations to implement and enforce the act and would allow the department to adopt these regulations as emergency regulations, but would exempt the adoption of the regulations from specified requirements of the Administrative Procedures Act.

The bill would prohibit a manufacturer, wholesaler, or retail seller from knowingly selling in this state a lamp manufactured after November 30, 2004, that contains mercury that was added during the manufacture of that lamp, unless the lamp meets specified labeling requirements, except as specified. The bill would require the manufacturer to affix the label.

The bill would prohibit a person from transporting mercury containing lamp waste out of the state, unless the waste is transported to a mercury recycling facility issued a permit pursuant to the federal Resource Conservation and Recovery Act of 1976 (RCRA).

Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 10.9.1 (commencing with Section 25219.3) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.9.1. California Mercury Lamp Recycling Act of 2004

25219.3. The Legislature finds and declares all of the following:

(a) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and in the food chain.

(b) Due to the bioaccumulation of mercury and other contaminants in fish, the California Environmental Protection Agency has issued a warning advising that adults, and women who are pregnant or who may become pregnant, should limit their fish intake from several state waterways.

(c) At present, all fluorescent lamps contain mercury. The California Environmental Protection Agency classifies mercury-containing fluorescent lamps as hazardous waste when discarded.

(d) On and after January 1, 2006, the regulations adopted pursuant to this chapter shall prohibit the disposal of mercury-containing fluorescent lamps in solid waste landfills.

25219.4. (a) For purposes of this article, the following definitions apply:

(1) “Board” means the California Integrated Waste Management Board.

(2) “Mercury containing lamp waste” means the bulb or tube portion of an electric lighting device that is used in a fluorescent or high intensity lighting device, and that is no longer fit for its intended use as a lamp or is discarded.

1 (3) “Retail seller” means a person who sells, or offers for sale,
2 a mercury containing fluorescent lamp in a retail sale, as defined
3 in Section 6007 of the Revenue and Taxation Code.

4 (4) “Subaccount” means the Fluorescent Lamp Recycling
5 Subaccount created pursuant to subdivision (e) of Section
6 25219.5.

7 (5) “Wholesaler” means a person who sells a mercury
8 containing fluorescent lamp to a retail seller.

9 (b) This article shall be known, and may be cited, as the
10 “California Mercury Lamp Recycling Act of 2004.”

11 25219.5. (a) Each retail purchaser who purchases a
12 fluorescent lamp in this state shall pay a fluorescent lamp recycling
13 fee to the retail seller. The department shall set the amount of the
14 fluorescent lamp recycling fee at an amount that is sufficient to pay
15 for the cost of recycling the fluorescent lamp.

16 (b) The retail seller shall charge the retail purchaser the amount
17 of the fluorescent lamp recycling fee as a charge that is separate
18 from, and not included in, any other fee, charge, or other amount
19 paid by the retail purchaser.

20 (c) The retail seller shall collect the fluorescent lamp recycling
21 fee from the retail purchaser at the time of sale and shall transmit
22 the fee revenues to the State Board of Equalization on or before the
23 last day of the month following each quarter, accompanied by any
24 forms prescribed by the State Board of Equalization.

25 (d) The State Board of Equalization shall deposit all fee
26 revenues collected pursuant to this section into the subaccount,
27 except the State Board of Equalization may retain an amount of
28 each fee that is equivalent to the costs of administering the
29 collection of the fee.

30 (e) There is hereby established the Fluorescent Lamp
31 Recycling Subaccount within the Hazardous Waste Control
32 Account. In addition to any other money that may be deposited in
33 the subaccount pursuant to statute, all of the following amounts
34 shall be deposited into the subaccount:

35 (1) All fee revenues collected pursuant to this section.

36 (2) Any interest earned upon the money deposited in the
37 subaccount.

38 (f) The funds in the subaccount may be expended by the
39 department and the board, upon appropriation by the Legislature,
40 for all of the following purposes:



1 (1) Making recycling incentive payments pursuant to
2 subdivision (g), to a fluorescent lamp recycler that collects and
3 processes fluorescent lamps in compliance with the applicable
4 provisions of Chapter 23 (commencing with Section 66273.1) of
5 Division 4.5 of Title 22 of the California Code of Regulations.

6 (2) Providing grant funds to local governments to assist in the
7 convenient and cost effective collection and processing of
8 fluorescent lamps as a universal waste.

9 (3) Establishing a recycling incentive grant program, including
10 paying recycling incentive payments, to a retail seller or
11 wholesaler that collects and transports fluorescent lamps in
12 compliance with the applicable provisions of Chapter 23
13 (commencing with Section 66273.1) of Division 4.5 of Title 22 of
14 the California Code of Regulations.

15 (4) Establishing a public information program to educate the
16 public of the hazards of fluorescent lamp collection programs.

17 (5) Implementing this article.

18 (6) Undertaking any activity necessary to ensure the safe and
19 proper collection, handling, and transportation of fluorescent
20 lamps.

21 (g) The department shall establish the amount of the recycling
22 incentive payment at a level sufficient to offset the cost of
23 recycling fluorescent lamps. The department may establish
24 different payment levels based on the different recycling costs
25 associated with different types of generators. In determining the
26 amount of the recycling incentive payment that a fluorescent lamp
27 recycler may receive, the department shall include all of the
28 following factors:

29 (1) The compliance history of the fluorescent lamp recycler.

30 (2) The volumes of fluorescent lamps recycled by that recycler.

31 (3) Whether the recycling process used by the fluorescent lamp
32 recycler produces a viable product and prevents the mercury from
33 environmental circulation.

34 (h) The department shall enter into an agreement with the board
35 regarding appropriate responsibilities of each agency in expending
36 the funds for the purpose set forth in this section.

37 25219.6. (a) Except as provided in subdivision (d), a
38 manufacturer, wholesaler, or retail seller may not knowingly sell
39 in this state a lamp manufactured after November 30, 2004, that
40 contains mercury that was added during the manufacture of that

1 lamp, unless the lamp is labeled in accordance with subdivision
2 (b).

3 (b) (1) Except as provided in paragraph (2), a lamp is labeled
4 for purposes of subdivision (a) if the lamp meets both of the
5 following requirements:

6 (A) A label is affixed to the lamp that displays the
7 internationally recognized symbol for the element mercury.

8 (B) Except as provided in subdivision (d), the label on the
9 lamp's packaging includes all of the following:

10 (i) Clearly informs the purchaser that mercury is present in the
11 item.

12 (ii) Explains that the fluorescent lamp should be disposed of
13 according to applicable federal, state, and local laws.

14 (iii) Provides a toll free telephone number, and a uniform
15 resource locator Internet address to a Web site, that contains
16 information on applicable disposal laws.

17 (2) If the label on a lamp complies with the labeling
18 requirements of another state regarding the mercury in a
19 fluorescent lamp, the label shall be deemed to meet the
20 requirements of this section.

21 (c) The manufacturer of a lamp subject to subdivision (a) shall
22 affix the label on the lamp that is required by subdivision (b).

23 (d) The requirements of subparagraph (B) of paragraph (1) of
24 subdivision (b) do not apply to a product that is sold with an
25 installed lamp that is subject to the labeling requirements of
26 subdivision (a).

27 25219.7. A person may not transport mercury containing
28 lamp waste out of the state, unless the waste is transported to a
29 mercury recycling facility issued a permit pursuant to the federal
30 act.

31 25219.8. The department may, as necessary, adopt
32 regulations to implement and enforce this article. The department
33 may adopt these regulations as emergency regulations in
34 accordance with Chapter 3.5 (commencing with Section 11340) of
35 Part 1 of Division 3 of Title 2 of the Government Code, and for
36 purposes of that chapter, including Section 11349.6 of the
37 Government Code, the adoption of the regulations is an emergency
38 and shall be considered by the Office of Administrative Law as
39 necessary for the immediate preservation of the public peace,
40 health, safety, and general welfare. Notwithstanding subdivision

1 (e) of Section 11346.1 of the Government Code, any emergency
2 regulations adopted by the department pursuant to this section
3 shall be filed with, but not be repealed by, the Office of
4 Administrative Law and shall remain in effect until revised by the
5 department.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

